

May 18, 2017

Hon. Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Deputy Attorney General Rosenstein:

Democracy 21 commends you on your decision yesterday to appoint Robert Mueller as an independent Special Counsel to lead the Department's investigation into Russian interference in the 2016 presidential election and possible collusion between the Trump campaign and Trump associates and Russian actors.

As a former FBI Director, U.S. Attorney and head of the Justice Department's Criminal Division, Mr. Mueller is extraordinarily well qualified to serve as the independent head of this investigation.

In letters sent on March 3, 2017 and May 10, 2017, Democracy 21 called for the appointment of a Special Counsel to head this investigation under the applicable Department regulations, 28 C.F.R. § 600 *et seq.* Your decision to invoke your authority under section 600.1 to name Mr. Mueller clearly serves the public interest in ensuring that there is a comprehensive, independent and publicly credible investigation into these matters of critical national importance.

The applicable Departmental regulations, however, continue to provide the Attorney General with some oversight authority regarding the Special Counsel's investigation. In light of Attorney General Sessions' recusal from this matter on March 2, 2017, you now exercise this authority. We urge you to do so with great caution, and to ensure that Mr. Mueller is provided with all the resources he needs to conduct his investigation with appropriate independence.

For example, the regulations provide that the Special Counsel, within the first 60 days of his appointment, "shall develop a proposed budget" for his investigation that is subject to the Attorney General's review and approval. 28 C.F.R. §600.8(a). In exercising this approval authority you need to recognize the specific requirement in the regulations that a Special Counsel "shall be provided all appropriate resources by the Department of Justice." *Id.*

Similarly, the Special Counsel "may request the assignment of appropriate Department employees" and "may request that additional personnel be hired or assigned from outside the Department." *Id.* § 600.5. Again, the regulations require that you and all Department personnel

“cooperate to the fullest extent possible with the Special Counsel” in ensuring there is adequate staff for the investigation. *Id.*

The regulations provide that the Special Counsel “shall not be subject to the day-to-day supervision of any official in the Department.” *Id.* § 600.7(b). The regulations, however, also provide you with the authority to review “any investigative or prosecutorial step” taken by the Special Counsel and to conclude that the action “is so inappropriate or unwarranted under established Departmental practices that it should not be pursued.” *Id.* § 600.7(b).

You should exercise this review authority with great care. Any intervention by you or other members of the Justice Department in the Special Counsel’s independent conduct of this investigation should be taken in only the most extreme of circumstances. Any such interference is likely to seriously undermine the public credibility of the Special Counsel’s investigation. The regulation itself provides that in exercising your review authority, “the Attorney General will give great weight to the views of the Special Counsel.” *Id.*

Furthermore, in the event that you exercise the authority to override an investigative or prosecutorial step taken by the Special Counsel, you are required by the regulations to notify the Chairmen and Ranking Members of the House and Senate Judiciary Committees of your action. *Id.* 600.7(b), §600.9(a). The regulations give you discretion to “determine that public release of these reports would be in the public interest, to the extent that release would comply with applicable legal restrictions.” *Id.* § 600.9(c).

It is essential to the credibility of the Special Counsel investigation that you publicly release any report you make to the Judiciary Committee leaders in the event you override a position taken by the Special Counsel, in accordance with this provision of the regulations.

Democracy 21 again commends you for appointing an extremely, well qualified Special Counsel and calls on you to take all necessary steps to ensure that Mr. Mueller is able to conduct a publicly credible, independent investigation of this matter, supported with appropriate resources.

Sincerely,

/s/ Fred Wertheimer

Fred Wertheimer

Copy to: Robert Mueller, Special Counsel